United Nations CAT/C/SR.1221

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
12 May 2014

Original: English

Committee against Torture
Fifty-second session

Summary record of the 1221st meeting
Held at the Palais Wilson, Geneva, on Monday, 5 May 2014, at 3 p.m.

Chairperson: Mr. Grossman

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Initial report of Sierra Leone (continued) (CAT/C/SLE/1)

1. *At the invitation of the Chairperson, the delegation of Sierra Leone took places at the Committee table.*

2. **Mr. Kargbo** (Sierra Leone) said that many of the suggestions made by the Committee at the 1219th meeting had been submitted to the Constitutional Review Committee and he encouraged members of the Committee against Torture to make further submissions.

3. He acknowledged that the definition of torture in Sierra Leone law did not fully tally with that of the Convention, but prosecutions could be mounted under the Offences against the Person Act of 1861 and the Statute of the Special Court for Sierra Leone, under which a number of people had already been tried and convicted. Sierra Leone would, however, incorporate the wording of the Convention as soon as possible. It would also, if technical assistance were forthcoming, conduct a mass information campaign to disseminate the text of the Convention.

4. International human rights law and international humanitarian law formed part of the curriculum for training the armed forces, the police, the prison service and other law enforcement agencies. Refresher courses were also held. He noted that both the army and the police took part in United Nations peacekeeping operations.

5. The justice system was based on a structure consisting of the Supreme Court, the Court of Appeal, the High Court, magistrate's courts and local courts. The latter had only recently entered the "formal" system, but it had always been possible for a litigant to appeal from a local court to a magistrate's court, and from there to a higher court. With regard to legal aid and lawyers, he said that there were some 500 legal practitioners in the private sector and about 50 in government service. The cost of private legal services was, however, unaffordable to the vast majority of litigants or defendants. Free legal aid was available for serious offences, but it was inadequate and, following the passage of the Legal Aid Act in 2012, a legal aid board had been constituted. The Sierra Leone Bar Association and a number of non-governmental organizations (NGOs) operated legal aid schemes, mostly in rural areas, but they suffered from funding constraints.

6. The Truth and Reconciliation Commission had made a number of recommendations that had been accepted by the Government. The first concerned the disarmament and demobilization of ex-combatants, including child soldiers, of whom none remained. Training had been provided for all ex-combatants; they had been given the relevant tools of their trade and a number of them were still gainfully employed in that area. Secondly, it had recommended the abolition of the death penalty; and, thirdly, it had recommended 30 per cent representation of women in governance and national institutions. That target had not been met, but progress had been made: whereas in 2004 women had made up 10.9 per cent of local government members, that figure had risen to 18.9 per cent in 2008 and 19.1 per cent in 2012. Moreover, the Chief Justice, the Solicitor General and a number of other heads of national agencies were women.

7. The National Human Rights Commission had been established in 2004. It was an autonomous institution, which currently had an A accreditation under the Paris Principles. The Office of the Ombudsman was also functioning effectively.

8. The Government had set up the Reparations Fund in 2009, to be implemented by the National Commission for Social Action (NaCSA). There were 32,148 registered civilian

victims of war, of whom 13,283 were war widows, 8,677 child victims, 5,448 war wounded, 3,602 victims of sexual violence and 1,138 amputees. NaCSA had distributed grants to the amputees and some of the most severely war wounded. With regard to the abolition of corporal punishment, Sierra Leone accepted the Committee's observations and would address the issue. It would also conduct a public information campaign to combat the practice.

9. Legislative reforms undertaken to protect women and children included the Devolution of Estates Act, 2007, which enhanced women's rights to benefit from the estates of their deceased husbands; the Domestic Violence Act, 2007; the Registration of Customary Marriage and Divorce Act, 2007, which had reversed the previous situation under which customary marriages were not recognized in law; the Child Rights Act, 2007, which basically incorporated the Convention on the Rights of the Child; the Sexual Offences Act, No. 12, 2012; and the Chieftaincy Act, 2007, which recognized women's right to be Paramount Chief of their Chiefdoms, a post previously restricted to men. Paramount Chiefs were the local administrative heads of the 149 Chiefdoms of Sierra Leone and were elected from among family members of the customary rulers. They played no part in the judicial system.

10. To combat gender-based violence, the Government had established family support units in 41 locations across the country, which investigated all forms of child abuse and violence against women and provided counselling. There had been awareness-raising programmes countrywide and a presidential adviser on gender had been appointed to coordinate the development and implementation of policies. A system had been instituted of designating Saturdays for court sittings, with six law officers prosecuting in two courts, only for sexual and gender-based violence cases. The courts fast-tracked investigation and trials and provided some privacy for victims, since the trials attracted fewer crowds than on a weekday. Safe homes were provided, in cooperation with NGOs, for victims of such offences.

11. The law criminalizing abortion would be repealed, following the Committee's remarks at the 1219th meeting. The prison system would be overhauled and more staff would be appointed. Overcrowding was clearly a problem; following earlier remarks, he had checked the facts of a case in which NGOs claimed that 600 prisoners were being held in pretrial detention and had never gone to court. The Government was, however, considering the possibility of building new prisons out of the city. Nineteenth century building intended to house 400 prisoners currently held over 1,000. As for people held in police cells, the situation had improved. Crime rates were particularly high in Freetown, to which people had migrated during the war. He doubted that anyone had been held for a long time in a police vehicle, but he would look into the matter further. That claim was false. When he had taken up office, there had been 450 indictments outstanding, not all against people in detention, but the backlog had been cleared.

12. With regard to citizenship, it was correct that under the 1973 Citizenship Act, a person of negro African descent was defined as a person whose mother or father and any of the grandparents of the mother or father was a Negro of African descent. That was inappropriate and would be reformed as part of the constitutional review process.

13. With regard to the separation of the office of Attorney General from that of Minister of Justice, he said that the Government would honour that commitment. The provision was, however, entrenched in the Constitution, so would need a referendum to separate the two posts. As for the question of universal jurisdiction, he saw no reason why a torturer could not be prosecuted. With regard to extradition, the extradition Act No. 11 of 1974 needed to be updated, but there was other legislation under which extradition could be applied.

14. It was incorrect that ritual murder was dealt with in traditional courts. Murder of any kind was dealt with in the High Court. Ritual murder had no place in Sierra Leone. With regard to witchcraft, its existence was based on hearsay and was thus difficult to prove. The Government would, however, look into the issue.

15. The Government had legislated to make female genital mutilation illegal for persons under 18. The provision had been widely disseminated; conferences had been held and cooperation had been sought with practitioners, some of whom had expressed their willingness to discontinue the practice.

16. The Independent Police Complaint Board was indeed totally independent. It comprised upright citizens and its chairman, who was the country's first anti-corruption commissioner, was a man of the highest integrity. It had been established as a board rather than a commission for lack of funds: it had a skeleton staff and met at the discretion of the Board.

17. Magistrates and judges were appointed by the Chief Justice on the recommendation of the Judicial and Legal Service Commission. Local courts were required to be headed by a literate person who was able to speak English. The Commission had never had to remove a judge.

18. What Sierra Leone hoped for as a result of the constitutional review was a constitution for the people. The reform committee would consult nationwide, including over the Internet, so that Sierra Leone became a rights-based nation. The current Constitution was based partly on the United States model and partly on the United Kingdom. The combination of the two was problematic. He hoped that all international human rights and international humanitarian law could be incorporated in the Constitution and that the independence of the judiciary could be strengthened.

19. With regard to the taxi driver found dead in his cell, he had made inquiries. The matter was under investigation, but he noted that, as a result of the incident, a crowd had killed a police man. That matter was also under investigation. He added that solitary confinement did not exist and no minors were held with adult prisoners.

20. The practice of early marriage, which was rooted in tradition, remained widespread despite the laws prohibiting it. It would take time to persuade people to abandon it. He urged civil society to join his Government in its campaign to uproot the practice. His country's legislation on stateless persons and refugees was somewhat outdated and would need to be reviewed. Sierra Leone did not practice refoulement and was, he believed, often cited as a positive example in that regard.

21. **Ms. Belmir** (Country Rapporteur), noting that the State party's legislation contained a number of provisions criminalizing offences that constituted torture, said that it would be better to draft a single provision that defined, criminalized and penalized torture. She expressed concern that those dispensing justice in the courts, whether traditional or formal, were by and large not trained in the human rights aspects of the law. As a result the rights of petitioners, particularly women, were often misunderstood or disregarded. More training for judicial workers was needed. She asked what methodologies underlay the training provided to law enforcement officials.

22. She asked to what extent foreigners charged with breaking the law had access to consular services. She also wanted to know to what extent the issue of impunity had been addressed in the recommendations of the Truth and Reconciliation Commission. She emphasized that eradicating impunity was an essential part of the process of providing reparations to victims.

23. While the State party was taking steps to reduce violence against women, much remained to be done to change the attitudes and behaviour of those applying the law.

Referring to cases of ill-treatment of children that she had cited earlier, she said that the State party must do more to ensure that children did not pay the price for the instability afflicting Sierra Leone. She wondered whether the provisions in article 16, paragraph 2, of the State party's Constitution, which implied that the killing of a person in the course of certain law enforcement proceedings did not constitute murder, could encourage the use of fatal force.

24. **Mr. Domah** (Country Rapporteur) said that, as many of his earlier questions had gone unanswered, he would repeat some of them. At the outset, he wished to stress that mentioning an issue in a country's constitution was not tantamount to covering it in legislation. For example, while the inclusion in a State's constitution of a prohibition against a practice such as torture represented a commitment by the State concerned, it did not guarantee that the practice would not occur. For that reason the prohibition needed also to be reflected in legislation and implementing measures.

25. The Committee was not in a position to submit comments to the State party's constitutional review committee, as the delegation had proposed; it was up to the delegation to provide that body with the Committee's report. While he had not received a copy of the correctional services bill mentioned earlier, he gathered that it covered the treatment of prisoners after conviction. The Committee was, however, also concerned with pretrial detention conditions and guarantees against arbitrary arrest and detention. In the State party's submissions and the delegation's statements he saw very little mention of those issues. How did the State party propose to tackle them?

26. If the traditional justice system was brought under the aegis of the formal justice system, the State party would need to provide adequate resources to ensure that the reform took hold. In that context, he reiterated his request for additional information about the legal aid system. He asked whether the independent police complaints board mentioned by the delegation was indeed independent and impartial, and whether it had the necessary resources to do its work properly.

27. Did the State party's human rights commission have the power to do more than simply make recommendations? Once death sentences had been commuted to lifetime imprisonment, were there ways to further reduce those sentences – for example, by requesting parole? Was evidence obtained through torture admissible in court? How would the State party fund an integral system for providing reparations to victims? Until now most of the necessary resources had been provided by NGOs. Also, considering the weaknesses of previous reparation systems established in Sierra Leone, how would the State party ensure that the new one was more effective?

28. **Mr. Modvig** said that the State party might find it useful to institute a mandatory reporting system whereby all prisons would report certain types of information to the Ministry of Social Welfare, Gender and Children's Affairs. Such reporting could include cases of use of force, the use of disciplinary measures such as solitary confinement, information on the status of detained minors and the like. The resulting information could help the Government to effectively monitor prison conditions and track the implementation of relevant legal provisions.

29. **Mr. Gaye** said that, if he understood correctly, both the formal courts and those operating under customary law were competent to decide on all matters, and it was possible to have decisions by the latter re-examined by the former. He wondered if it would not be more efficient to systematically channel certain types of cases to certain courts. He requested more information about the setting up of a committee to investigate allegations of torture committed by police officials. Was the State party considering establishing similar mechanisms for examining allegations of torture by military and prison officials? He

stressed that investigating such allegations in an impartial manner would help to combat impunity.

30. **Mr. Tugushi** asked whether deaths among prisoners were investigated, and whether it was known what proportion of such deaths resulted from violence. The Committee had received reports of overcrowding in prisons, which was a cause of violence. He asked which ministry oversaw health care in prisons and how the State party planned to improve the quality of such health care. He asked whether the State party planned to improve conditions in police holding cells, which reportedly tended to be overcrowded, and whether, as it built new prisons, the State party would close some existing ones. In many countries merely increasing prison capacity had proved ineffective in deterring crime.

31. **The Chairperson** asked whether there was a legal provision stipulating that, as provided in article 2 of the Convention, the prohibition against torture could not be suspended in a public emergency. While victims of gender-based violence were legally entitled to request a free medical report, the Committee had been informed that many doctors still charged victims fees for such reports. Was that the case? When in an extradition case the Attorney General determined that a person was not at risk of being tortured in the country to which he or she would be extradited, could the decision be overruled by a judge?

32. **Mr. Kargbo** (Sierra Leone) reiterated that it was the intention of the State party to include a definition of torture in legislation and to prohibit corporal punishment as part of the ongoing process of legal reform. The Law Reform Commission was advising the Government. The State party also planned to hold a referendum on constitutional reform in order to separate the office of Attorney-General from that of Minister of Justice. It was also committed to abolishing the death penalty.

33. Under the Local Courts Act, the Chief Justice of the Supreme Court had taken over the supervision of local courts from the Ministry of Local Government. Local court staff received training under a programme run in conjunction with the United Nations Development Programme (UNDP). Cases that began in local courts could proceed to magistrate's courts, in which case the magistrate usually sat with two advisors well versed in the traditions and customs obtaining in the jurisdiction of the local court concerned. Given that there were 149 chiefdoms and that some of them, by dint of their size and importance, had more than one local court, it was possible that the total number of local courts in the country stood at around 300. He did not, however, have the precise figures to hand.

34. The personnel of police units attached to local courts received human rights training and all judicial personnel attended continuing training courses. Fortnightly refresher courses were held for magistrates and judges. As implementation of the Act proceeded, it was expected that the administration of justice would become more efficient. The impartiality and independence of the courts was upheld by the Constitution. Cases of influence being exerted on the courts by the executive branch were isolated and did not, in the main, vitiate their work. The principle of habeas corpus was observed in Sierra Leone, as was the practice of issuing discretionary writs, such as writs of certiorari.

35. The State party never prevented foreign nationals in conflict with the law in Sierra Leone from receiving consular assistance. Several NGOs, in particular Timap for Justice, worked with the Government to provide legal assistance. Evidence obtained through the use of torture was inadmissible in court. Police stations had family support units, established under the Child Rights Act of 2007, to deal with issues such as domestic violence and youth offenders. They were well funded and assisted by NGOs. The State party was determined to eradicate gender-based violence. A review of the Constitution, however, would be needed in order to allow the authorities to combat violence against women more

effectively. The State party was committed to pursuing policies to protect women and to implementing the recommendations made by the Truth and Reconciliation Commission in that regard.

36. The Commission had also made recommendations on the subject of impunity. No police officer would go unpunished for excessive use of force in modern-day Sierra Leone. However, prosecuting everyone responsible for crimes committed during the civil war would have been an overwhelming task. The mandate of the Special Court for Sierra Leone had thus been limited to prosecuting the perpetrators of the most egregious crimes. Many had been convicted and were still serving prison sentences. The process had served the country well and allowed it to achieve closure after a conflict that had traumatized the entire population.

37. Regrettably, the mandate of the Truth and Reconciliation Commission had been limited to compiling an historical record of events and making recommendations to the Government. It had been hoped that a reparations committee would be set up on the basis of its findings. Sierra Leone's partners, however, had failed to provide funding and the programme could not be implemented as planned. Most of what had been accomplished so far had been financed by the State. The National Commission for Social Action was the only body dealing with reparations, especially for war widows and people with serious injuries, such as amputees. It was discussing options for broadening its mandate with the World Bank.

38. Police and military officials received training in human rights and international humanitarian law, which was provided by bilateral partners and United Nations agencies. The International Committee of the Red Cross and other NGOs also provided regular training for police officers. Nevertheless, in the wake of the civil war, the State party still needed to review the scope of law enforcement agencies' obligations and duties.

39. The Constitution guaranteed the right of the arrested person to contact legal counsel of his or her choice. Custody could not exceed the limits established by law. The State did its best to ensure compliance with those safeguards. A bail system was monitored by the courts, but it was true that its functioning was subverted in some cases. Appointees to the Independent Police Complaints Board were selected carefully. Public officials who committed acts of torture under the orders of a superior were already liable to be prosecuted in Sierra Leone but such prosecutions would be stepped up when the Board became fully operational. The Human Rights Commission, which had been accredited with "A" status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), was an effective institution. The State party would consider the possibility of setting up a national preventive mechanism.

40. Sentences of life imprisonment could be and were frequently commuted to lesser terms. Prison mortality was 2 per cent. All deaths in prison were investigated by a coroner. Daily reports were sent from prisons to the central authorities. The main prison in Freetown was outdated and facilities outside the city were being upgraded to take its place. Clinics operated in prisons. In more serious medical situations, prison inmates were transferred to a free State-run clinic. Only prisoners who had already appeared before a court and for whom bail had not been set were held in remand. Remand prisoners were not held in police stations.

41. Victims of violent assault were generally issued with a police request for a medical examination for use as evidence in court, to be carried out by specific doctors in certain hospitals. The process was free and allegations that some doctors charged for the service would be looked into. Special medical centres provided free counselling for victims of sexual offences. They also operated safe houses and a witness protection programme. The

Government was determined to maintain its efforts to deter youngsters 'rom early marriage and to combat the problem of teenage pregnancy.

The meeting rose at 6 p.m.